



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY

AUG 10 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable James Tedesco III
Bergen County Executive
One Bergen County Plaza
Floor 5, Room 580
Hackensack, NJ 07601

Re: Notice of Potential Liability and Request to Perform Response Actions Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., for the Berry's Creek Study Area, Ventron/Velsicol Superfund Site, Bergen County, New Jersey

Dear County Executive Tedesco:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release or threat of release of hazardous substances, pollutants, and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. Sections 9601-9675.

As we discussed in our meeting on May 2, EPA has documented the release and threat of release of hazardous substances into the environment at the Berry's Creek Study Area of the Ventron/Velsicol Superfund Site, Bergen County, New Jersey (the "Site"). In response to the release and threat of release of hazardous substances at the Site, EPA has spent public funds and anticipates spending additional public funds pursuant to CERCLA. Based on information presently available, EPA has determined that Bergen County may be responsible under CERCLA for cleanup of the Site or costs EPA has incurred in cleaning up the Site.

The Berry's Creek Study Area portion of the Site, includes the water body known as Berry's Creek including the Berry's Creek Canal and the natural course of Berry's Creek, all tributaries to Berry's Creek from its headwaters to the Hackensack River, and wetlands that are hydrologically connected to Berry's Creek and/or its tributaries. The Berry's Creek Study Area also includes upland properties in the Berry's Creek watershed (as potential sources of contamination to the creek, but not for the purpose of detailed investigations of the upland areas themselves). Tidal portions of the Hackensack River and adjacent areas will also be studied, as necessary, to evaluate the ecological relationships and exchanges of contamination between these areas and the Berry's Creek Study Area.

NOTICE OF POTENTIAL LIABILITY

Under CERCLA and other laws, responsible parties, including municipalities, may be held liable for monies expended by the federal government in taking response actions at and around sites where hazardous substances have been released, including investigative, planning, removal, remedial and enforcement actions. Responsible parties also may be subject to orders requiring them to take response actions themselves. Responsible parties under CERCLA include, among others, the current and past owners or operators of a facility from which there has been a release or threatened release of hazardous substances, persons that arranged for the treatment or disposal of hazardous substances which were sent to such a facility, and persons that transported hazardous substances to such a facility.

By this letter, EPA notifies you that it has reason to believe that Bergen County owned or operated, or currently owns or operates, a facility which engaged in activities resulting in the release of hazardous substances to the Site, or arranged for the treatment or disposal of hazardous substances which may have come to be disposed of at such facility, and is accordingly notifying Bergen County of its status as a potentially responsible party ("PRP") under Section 107(a) of CERCLA, 42 U.S.C. 9607(a).

REQUEST TO PERFORM RESPONSE ACTIONS

By this letter, EPA invites Bergen County to enter into discussions with the parties ("PRP Group") currently performing a remedial investigation/feasibility study ("RI/FS") of the Berry's Creek Study Area pursuant to an administrative order on consent issued by EPA under CERCLA (U.S. EPA Index No. II-CERCLA-2008-2011) (the "AOC"). A copy of the AOC (with the appended Statement of Work (SOW)) is enclosed. It contains an explanation of the work that will be required to implement the RI/FS. In addition, as explained below, EPA will be available to meet with you to discuss questions concerning response actions at the Site.

Within thirty (30) days from the date of your receipt of this letter, please submit a letter indicating Bergen County's willingness to cooperate with the PRP Group and perform response actions at the Site. Your letter should include the following elements:

1. A statement of Bergen County's willingness to cooperate with the PRP Group; and
2. The name, address, phone number and e-mail address of the individual who will represent Bergen County.

If EPA does not receive a timely response, it will assume that Bergen County does not wish to participate in response actions at the Site.

FINANCIAL CONCERNS/ABILITY TO PAY SETTLEMENTS

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs or performance of work at a site may be substantially limited. If you believe, and can document, that Bergen County falls within that category, please contact Clay Monroe, Assistant Regional Counsel, in writing at the address provided in this letter. You will be asked to submit financial records to substantiate your claim.

Also, please note that, because EPA has a potential claim against Bergen County, it must include EPA as a creditor if it files for bankruptcy.

INFORMATION TO ASSIST POTENTIALLY RESPONSIBLE PARTIES

EPA has established an Administrative Record that contains documents that serve as the basis for EPA's selection of a cleanup action for Berry's Creek Study Area. The Administrative Record files are available to you and the public at the Superfund Records Center, located at EPA Region 2 offices in New York City. Please contact Douglas Tomchuk at (212) 637-3956 if you wish to arrange an appointment to review Site files.

RESPONSE TO THIS NOTICE

John Hanson, Esq. has served as representative of the PRPs in negotiations with EPA. EPA recommends that you reach out to the steering committee through Mr. Hanson, Esq. at (202) 789-6015 or JHanson@bdlaw.com.

Your response to the Notice contained in this letter, including your willingness to cooperate with the PRP Group and perform response actions, should be sent to:

Douglas Tomchuk
Remedial Project Manager
USEPA - Region 2
290 Broadway, 19th Floor
New York, New York 10007-1866

With a copy to:

Clay Monroe
Assistant Regional Counsel
USEPA - Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866

EPA urges that your immediate attention and prompt response be given to this letter.

This notice is not being provided pursuant to the "special notice" procedures outlined in Section 122 (e) of CERCLA, 42 U.S.C. Section 9622 (e), because EPA does not believe that those procedures would facilitate an agreement or expedite response actions for the Site.

If you have any questions regarding this Notice of Potential Liability and Request to Perform Response Actions, or would like to discuss this matter with EPA, please call or have your attorney call Mr. Monroe at (212) 637-3142.

Sincerely,



Eric J. Wilson
Deputy Director for Enforcement and Homeland Security
Emergency and Remedial Response Division

Enclosures

cc: Gwen Zervas, NJDEP
Rachel Layre, NJDOL

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BERGEN COUNTY
COUNSEL